

**MINUTES OF THE
ADMINISTRATIVE RULES REVIEW COMMITTEE**
Tuesday, June 1, 2004 – 9:00 a.m. – Room W25 House Building

Members Present:

Sen. Howard A. Stephenson, Senate Chair
Rep. David Ure, House Chair
Sen. Mike Dmitrich
Sen. Ed Mayne
Sen. Michael G. Waddoups
Rep. Judy A. Buffmire
Rep. Greg J. Curtis
Rep. James R. Gowans
Rep. Merlynn T. Newbold

Members Absent:

President Al Mansell

Staff Present:

Mr. Arthur L. Hunsaker, Policy Analyst
Ms. Susan Creager Allred, Associate General Counsel

Note: A list of others present and a copy of materials can be found at www.le.utah.gov or by contacting the committee secretary at 538-1032. A recording of the meeting may also be available from the Office of Legislative Research and General Counsel.

1. Committee Business

Chair Ure called the meeting to order at 9:14 a.m.

MOTION: Representative Gowans moved to approve the minutes of the April 20, 2004 meeting. The motion passed unanimously with Representative Curtis absent.

2. Clarifying Statutory and Rulemaking Needs for Implementation of Utah Code Subsections 54-12-1(2) and 54-12-2(4) (Rep. Gowans)

Rep. Gowans introduced the issue. He cited the state's policy in Subsection 54-12-1(2) to encourage the development of small power production and cogeneration facilities and suggested that perhaps administrative rules were needed to ensure that state policy is carried out.

Ric Campbell, Chair, PSC (Public Service Commission), addressed the Committee. He stated that rates for qualifying small power production and cogeneration facilities are set according to avoided costs: the costs a utility avoids if it can buy energy from one of these facilities rather than build a facility.

Rep. Newbold asked if the avoided cost formula is in rule. Mr. Campbell replied that it is in an order.

Discussion followed. Sens. Stephenson and Mayne and Reps. Curtis and Buffmire commented.

Mr. Steve Mecham, representing independent power producers, said that he supports legislation to affirmatively encourage independent companies to come to Utah.

Rep. Newbold said that due to the impact of avoided costs rules should govern their determination.

Edward Hunter, Pacificorp, said it was his understanding that the issues currently being raised were resolved previously before the PSC. Committee discussion followed.

The Committee chairs agreed to send a audio tape of the Committee's discussion to the Public Utilities and Technology Interim Committee.

Paul Barber, Associate Director, Utah Energy Users Association, discussed the importance of independent power production.

Kelly Fancone, Utility Analyst, Committee of Consumer Services, discussed the nature of avoided costs and how they may vary depending on the facility.

Roger Swenson, Energy Consultant, distributed a chart titled, "Committee of Consumer Services Avoided Cost Benchmark Comparisons Considering 20-Year Levelized All-In Avoided Cost as a Percent of Settlement Avoided Cost" and discussed removing barriers to independent power production.

MOTION: Sen. Stephenson moved that a letter be sent to the Public Utilities and Technology Interim Committee suggesting that it consider current statutory language encouraging the development of small power production and cogeneration facilities to determine if encouragement should continue and, if so, whether the Committee should recommend expansion of the statute to clearly detail what PSC actions constitute "encouraging the development of small power production and cogeneration facilities."

Sen. Stephenson agreed to include in the draft letter language requested by Sen. Mayne, asking that the Public Utilities and Technology Interim Committee also study: how to protect consumers who are residential and small business users and small family farmers; how to assist large energy users to build their own power units; the issue of special deals and cost shifting; and how to ensure that Utah workers are hired to build plants rather than workers from out of state.

Sen. Stephenson also consented to have the concept of broadening state policy to include renewable energies, as requested by Rep. Gowans, added to the draft letter.

Sen. Stephenson announced that the draft letter will be brought back to the Committee for further discussion and review. The motion passed unanimously with Rep. Curtis absent.

MOTION: Sen. Stephenson moved to send a letter to the PSC indicating that the avoided cost process should be submitted as an administrative rule. The motion passed unanimously.

3. R590-230 Senior Protection in Annuity Transactions (Rep. Ure)

Rep. Ure expressed concern with the wording of the rule's severability clause.

Neil Gooch, Deputy Insurance Commissioner, explained that the purpose of the wording is to guide the courts in the event the rule is contested. Sen. Waddoups and Rep. Newbold and Ken Hansen, Director, Division of Administrative Rules and Kent Bishop, Governor's Office Planning and Budget, commented.

4. Committee Business

Rep. Ure announced that future meetings are scheduled for Tuesday, June 22 and July 6 at 9:00 a.m.

5. Adjourn

MOTION: In the absence of a quorum, Chair Ure declared the meeting adjourned at 11: 32 a.m.